

# **TOWN OF DAVIE TOWN COUNCIL AGENDA REPORT**

**TO:** Mayor and Councilmembers

**FROM/PHONE:** Mark Kutney, AICP/(954) 797-1101

**SUBJECT:** Quasi Judicial Hearing: Special Permit  
SE 9-1-01 Laystrom/Silva, 2100 Flamingo Road/Generally located at the  
northeast corner of Flamingo Road and SW 26 Street

**TITLE OF AGENDA ITEM:**

SE 9-1-01 C. William Laystrom, Petitioner/Victor Silva, Owner

**REPORT IN BRIEF:**

The petitioner requests approval a special permit for an outdoor exercise area for animals pursuant to Section 12-34(B)(11) of the Land Development Code. The intent of a special permit application is for Town Council to review uses that are permitted within a zoning district but may have adverse impacts on the surrounding area. The petitioner is proposing to develop the 7.97 acre parcel with a animal hospital, kennel, and three (3) single family dwellings. A special permit is required for the 4.721 acres (205,668 square feet) that is proposed to be utilized as an outdoor exercise area for animals. The proposed 4.721 acres (205,668 square feet) outdoor animal exercise area is a use that the Land Development Code requires a special permit because such use may potentially have an adverse impact on the surrounding area. The preliminary site plan shows an 8' masonry wall along the property lines with an outdoor exercise area for animals that is 1.583 acres (65,465 square feet) which is enclosed by a fence that is set back 50' from said wall, consistent with Code requirements.

The densely vegetated lands surrounding this parcel have a residential land use designation. There is a potential that noise from the outdoor exercise area will have an adverse impact on the surrounding lands if they are developed as residential unless the subject site is developed with adequate buffers. The Land Development Code requires that the outdoor exercise area be set back at least fifty (50) feet from all property lines and that an eight (8) foot masonry/concrete block wall be installed along the property line. The petitioner has submitted a preliminary site plan addressing this requirement.

Staff finds the buffering provided by the vast expanse of adjacent densely vegetated vacant parcels is currently adequate to mitigate any adverse impacts that the exercise area may pose on the surrounding area. Should residential development occur on adjacent properties, it is appropriate to require future compatibility review as a condition to this application to ensure that the hours of operation and the buffering provided are compatible with the surrounding uses.

**PREVIOUS ACTIONS:** None

**CONCURRENCES:** The Planning and Zoning Board recommended approval, subject to the staff recommendation, at its November 14, 2001 meeting (Motion carried 5-0).

**FISCAL IMPACT:** None

**RECOMMENDATION(S):** Motion to approve subject to the staff recommendation

**Attachment(s):** Planning Report, Justification letter, Land use map, Subject site map, Aerial

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**TOWN OF DAVIE**  
**Development Services Department**  
**Planning & Zoning Division Staff**  
**Report and Recommendation**

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**APPLICANT INFORMATION**

<b>Owner:</b>	<b>Agent:</b>
<b>Name:</b> Victor Silva	<b>Name:</b> C. William Laystrom, Jr.
<b>Address:</b> 10462 Harrier Street	<b>Address:</b> 1177 SE 3 Avenue
<b>City:</b> Plantation, FL 33324	<b>City:</b> Fort Lauderdale, FL 33316
<b>Phone:</b> (954)472-0107	<b>Phone:</b> (954)762-3400

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**BACKGROUND INFORMATION**

**Application History:** No deferrals have been requested.

**Application Request:** Special permit for the construction of an outdoor exercise area for animals pursuant to Section 12-34(B)(11) of the Land Development Code.

**Address/Location:** 2100 Flamingo Road/Generally located at the northeast corner of Flamingo Road and SW 26 Street.

**Future Land Use Plan Designation:** Residential (1 DU/AC), Commercial flexibility has been applied to Parcel "A" pursuant to FX 11-1-01.

**Zoning:** AG, Agricultural District

**Existing Use:** Vacant

**Proposed Use:** Animal hospital, kennel, three (3) single family dwellings

**Parcel Size:** 7.97 acres (347,096 square feet)

	<b><u>Surrounding Uses:</u></b>	<b><u>Surrounding Land Use Plan Designation:</u></b>
<b>North:</b>	Vacant, future site of animal recreation & rehabilitation facility pursuant to SE 1-1-01	Residential (1 DU/AC)
<b>South:</b>	Vacant	Residential (1 DU/AC)
<b>East:</b>	Vacant	Residential (1 DU/AC)
<b>West:</b>	Vacant	Residential (1 DU/AC)

**Surrounding Zoning:**

<b>North:</b>	AG, Agricultural District
<b>South:</b>	AG, Agricultural District
<b>East:</b>	AG, Agricultural District
<b>West:</b>	AG, Agricultural District

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**ZONING HISTORY**

**Related Zoning History:** Special Permit application, SE 1-1-01 Loeser/Milhem and Katz,

for an outdoor exercise area for animals, was approved by Town Council on March 7, 2001.

**Previous Request on same property:** Flexibility application, FX 11-1-01 Monica Silva/Thorite of Florida Inc., and Kligman, allocating 5 acres of commercial flexibility to allow for kennel use in order to be consistent with the Broward County Land Use Plan, was approved by Town Council on March 7, 2001.

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### **APPLICATION DETAILS**

The petitioner is proposing to develop the 7.97 acre parcel with a animal hospital, kennel, and three (3) single family dwellings. A special permit is required for the 4.721 acres (205,668 square feet) that is proposed to be utilized as an outdoor exercise area for animals. The preliminary site plan shows an 8' masonry wall along the property lines with an outdoor exercise area for animals that is 1.583 acres (65,465 square feet) which is enclosed by a fence that is set back 50' from said wall, consistent with Code requirements.

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### **Applicable Codes and Ordinances**

1. Section 12-34(10) of the Land Development Code permits animal hospitals/clinic facilities in AG, Agricultural Districts subject to limitations. The limitations include adequate soundproofing of areas where animals are contained or treated, exterior runs, cages, or exercise areas on a minimum parcel size of three (3) acres having setbacks of at least fifty (50) feet with concrete block walls used in the construction.
2. Section 12-107(D)(3) of the Land Development Code requires a ten (10) foot landscape buffer, an eight (8) foot masonry wall installed along the property line, and one (1) fourteen to sixteen foot tree for each forty (40) linear feet or fraction thereof of property line, and a continuous row of hedges be installed.
3. Section 12-34(11) of the Land Development Code permits kennel facilities in AG, Agricultural Districts subject to limitations. The limitations include adequate soundproofing of areas where animals are contained or treated, exterior runs, cages, or exercise areas on a minimum parcel size of three (3) acres having setbacks of at least fifty (50) feet with concrete block walls used in the construction.
4. Section 12-35 of the Land Development Code states that the Town Council may grant a special permit for uses which have some special impact or uniqueness such that their effect on the surrounding environment cannot be determined in advance of the use being proposed for a particular location.

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### **Comprehensive Plan Considerations**

**Planning Area:** The subject property falls within Planning Area 2. Planning area 2 includes the westernmost section of the Town north of Orange Drive and south of SW 14 Street, and bound on the west by Interstate 75 and on the east by SW 100 Avenue. The predominant existing and planned land use is single family residential at a density of one dwelling per acre.

**Broward County Land Use Plan:** The subject site falls within Flexibility Zone 100.

**Applicable Goals, Objectives & Policies:** None

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## Staff Analysis

The intent of a special permit application is for Town Council to review uses that are permitted within a zoning district but may have adverse impacts on the surrounding area. The proposed 4.721 acres (205,668 square feet) outdoor animal exercise area is a use that the Land Development Code requires a special permit because such use may potentially have an adverse impact on the surrounding area.

The densely vegetated lands surrounding this parcel have a residential land use designation. There is a potential that noise from the outdoor exercise area will have an adverse impact on the surrounding lands if they are developed as residential unless the subject site is developed with adequate buffers. The Land Development Code requires that the outdoor exercise area be set back at least fifty (50) feet from all property lines and that an eight (8) foot masonry/concrete block wall be installed along the property line. The petitioner has submitted a preliminary site plan addressing this requirement.

Staff finds the buffering provided by the vast expanse of adjacent densely vegetated vacant parcels is currently adequate to mitigate any adverse impacts that the exercise area may pose on the surrounding area. Should residential development occur on adjacent properties, it is appropriate to require future compatibility review as a condition to this application to ensure that the hours of operation and the buffering provided are compatible with the surrounding uses.

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## Findings of Fact

### **Review for Special Permits:**

#### **Section 12-308(A)(1)(a):**

(i) The proposed change is not contrary to the adopted comprehensive plan, as amended, or any element or portion thereof;

(ii) The proposed change will not create an unrelated an incompatible use;

*Residential and agricultural uses are both permitted within the AG, Agricultural District.*

(iii) The proposed change will not adversely affect living conditions in the neighborhood or the town;

*The parcel is well buffered from adjacent residential areas, and the applicant is required to install additional buffers.*

(iv) The proposed change will not create or excessively increase automobile and vehicular traffic congestion above that which would be anticipated with permitted intensities or densities of the underlying land use plan designation, or otherwise affect public safety;

(v) The proposed change is not expected to adversely affect surrounding property values;

*The proposed use is located within a 7.97 acre property which acts as an open space buffer to adjoining properties, exceeding the 3 acre minimum requirement for animal hospitals with outdoor runs.*

(vi) The proposed change is not expected to be a deterrent to the improvement or development of other property in accord with existing regulations;

*Staff recommends the special permit be subject to future compatibility review as a condition to this application should the adjoining parcels become suburbanized to ensure that the hours of operation and the buffering provided are compatible with the surrounding uses.*

(vii) The proposed change will not constitute a grant of special privilege to an individual owner as contrasted with the welfare of the general public.

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### **Staff Recommendation**

**Recommendation:** Based upon the above and the finding of facts, staff recommends **conditional approval**, of petition SE 9-1-01. The three (3) conditions staff recommends are: 1) the special permit be subject to review one year after the issuance of the first Certificate of Occupancy to a residence within a 500 foot radius, and afterwards, renewal of the special permit on an annual basis by staff unless there is a complaint that has been registered with the Town regarding the operation of the property which would then be reviewed by Town Council; 2) that all outdoor activities on this site be conducted only within areas that are adequately buffered; 3) that the site plan for this property demonstrate compliance with the landscaping and buffering requirements of the Land Development Code, and any additional buffers that Town Council may deem necessary for the purposes of animal noise containment.

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### **Planning & Zoning Board Recommendation**

The Planning and Zoning Board recommended approval, subject to the staff recommendation, at its November 14, 2001 meeting (Motion carried 5-0).

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### **Exhibits**

1. Justification letter
2. Preliminary site plan
3. Land use map
4. Subject site map
5. Aerial

Prepared by: \_\_\_\_\_

Reviewed by: \_\_\_\_\_

### SPECIAL PERMIT REQUEST

This Special Permit Request is to allow the application to utilize 1.517 acres (66,085 square feet) of its approved animal hospital with pet day care and boarding kennels as an outdoor exercise yard for the pets housed there.

### JUSTIFICATION STATEMENT FOR SPECIAL PERMIT

The subject site contains approximately 7.97 gross acres (347,132 square feet) that are vacant lands. Only a portion of this land, however, is the subject of this Special Permit Application. The area that is the subject matter of this application consists of 4.721 acres (205,668 square feet). A survey depicting the larger tract is included with the application. A sketch and description depicting the smaller tract that is the subject matter of the special permit request is also included with the application.

The subject property is contiguous to the east side of the frontage road of Flamingo Road, S.W. 124<sup>th</sup> Avenue. Immediately to the north is a tract of land with the same zoning designation wherein a very similar use is being implemented and a virtually identical special permit application has previously been granted by the town. To the east of the subject property is vacant land zoned residential and designated as residential on the Town's Future Land Use Map. To the south is vacant land also zoned residential and designated residential on the Town's Future Land Use Map.

In March, 2001, the Davie Town Council approved the petitioner's application for rezoning of this property pursuant to the Broward County flex rule to allow for the operation of an animal hospital with pet day care and boarding kennels on the property. At the time, the petitioner contemplated the necessity for the filing of this Special Permit Application for an outdoor exercise area for the animals at the facility, but was unable to proceed since a specific site plan had not been determined or proposed and it was unclear that the proposed use would be approved by Broward County. Since that approval has now been obtained, the petitioner has been able to prepare a Preliminary Site Plan, a copy of which is attached to this application.

This application seeks a special permit to utilize a portion of the facility for an outdoor exercise area for the dogs that will be utilizing the facilities. Initially this outdoor exercise area is projected to be 1.517 acres (66,085 square feet), but will be reduced in size as the expansion of the kennels is completed in the

future.

The property immediately to the north of this property located at 2000 Flamingo Road has a similar, but completely unrelated use. At that facility, an animal hospital will be located with an outdoor training and exercise facility for specially trained dogs, such as police dogs or guide dogs. The adjacent land owner's special permit application was approved by the Town with specific conditions. Both the petitioner and petitioner's counsel were present for both the planning and zoning board discussion of the matter and the Town Council approval of the special exception application, and are mindful of the concerns of the Town in potential future residents of the surrounding properties to the east and south. The proposed facility on the subject property is similar in that it is an animal hospital, pet day care and boarding kennels for dogs, but is different in that the animals utilizing the facility will not be specially trained work dogs, but rather more likely it would be pets of private individuals. It is understood, however, that the same considerations would apply to both facilities.

A review of the special permit request should include a consideration of the criteria listed in Section 27-804(f) of the Town of Davie Code of Ordinances to determine if the request should be favorably reviewed. These criteria with respect to the subject request are discussed below.

Criterion (1): Whether the proposed special permit is contrary to the adopted comprehensive plan, as amended, or any element or portion thereof.

The special permit would grant only an outdoor exercise yard as a portion of an already approved animal hospital/kennel facility which was determined at the time of the flex rezoning request not to be contrary to either the Town's or Broward County's adopted Comprehensive Plan. Pursuant to Section 12-34(B)(10), an animal hospital and/or clinic facility may be permitted in an A-1 district with kennel facilities as an ancillary use. Further, this same section specifically provides for exterior exercise areas subject to certain limitations. First, setbacks for outdoor exercise areas shall be at least 50 feet from all property lines. The attached proposed Site Plan clearly shows that the exercise area satisfies this requirement. Second, the exterior exercise area must incorporate concrete block walls to minimize noise and other disturbances to adjoining property owners. The proposed site plan specifically shows an 8 foot high masonry wall is proposed to surround the property and satisfies this purpose. Finally, the

outdoor exercise area requires a landscape opacity 1.0, which will be provided. Section 12-34(B)(11) specifically contemplates outdoor exercise areas associated with dog kennels and the granting of a special permit based upon these same limitations.

As a result, the special permit request is consistent with the adopted comprehensive plan.

Criterion (2): Whether the proposed special permit will create an unrelated and incompatible adjacent use.

The requested special permit is consistent and compatible with the use immediately to the north of this property. To the immediate east is vacant property owned by the applicant which may not be utilized for the facility, and therefore remains zoned residential, but is compatible with this use. The use is not incompatible with the vacant land to the south.

As a result, the proposed special permit satisfies this criterion.

Criterion (3): Whether the proposed special permit will adversely affect living conditions in the neighborhood, or the town.

It has already been determined that the animal hospital/boarding kennels will not adversely affect living conditions in the neighborhood or the Town, and the addition of an outdoor exercise area will have no affect provided that the applicant complies with the conditions of Section 12-34 of the Town Land Development Code. In addition to those buffers required by the Code, this facility has a large buffer immediately to the north in that it is the same type of facility which would not be adversely affected by the use of the outdoor exercise area. Again, the applicant's own property to the east will act as an additional buffer to any future residential developments in that area. The property immediately to the south remains vacant so there can be no potential adverse effect until it is developed as a residential. The limitations and buffers in place should adequately provide that there will be no adverse effect on the living conditions of anyone moving into the area immediately to the south. Further, it is not contemplated that the exercise area will generate any disturbance or would be operated in any objectionable times of day.

As a result, the proposed special permit satisfies this criterion.

Criterion (4): Whether the proposed special permit will create or excessively increase automobile and vehicular traffic congestion or otherwise affect public safety.



The proposed outdoor exercise area should have absolutely no effect whatsoever on automobile or vehicular traffic in that it would not increase the number of trips or bring additional patrons to the facility. No public safety issues are created by the construction of the exercise area.

As a result, the proposed special permit satisfies this criterion.

Criterion (5): Whether the proposed special permit will adversely affect surrounding property values.

The proposed special permit to allow the outdoor exercise area will have no effect on surrounding property values. Immediately to the north is a similar use which will not be negatively impacted by the outdoor exercise area. Immediately to the east is the applicant's own vacant land which likewise will not be negatively affected by the outdoor exercise yard. To the south is vacant land which will not be negatively affected provided that the necessary buffering is in place and the applicant maintains the property in compliance with the terms of the Town Land Development Code. Obviously the property to the west of Flamingo Road which is a divided arterial should not be affected by the use of the property in any fashion.

As a result, the proposed special permit satisfies this criterion.

Criterion (6): Whether the proposed special permit will be a deterrent to the improvement or development of other property in accord with existing regulations.

The special permit to allow the outdoor exercise area will not be a deterrent to the improvement or development of other property in that the property immediately to the north is already been developed in accord with existing regulations. The applicant's own property to the east remains zoned residential and is required to be developed in accordance with existing regulations as a result of the approval of this facility. Finally, the property to the south will not be adversely affected provided that the limitations are adhered to and that the petitioner operates the property in accordance with the Town Land Development Code. Again the property to the west of Flamingo Road should not be affected by the use of the property in any fashion.

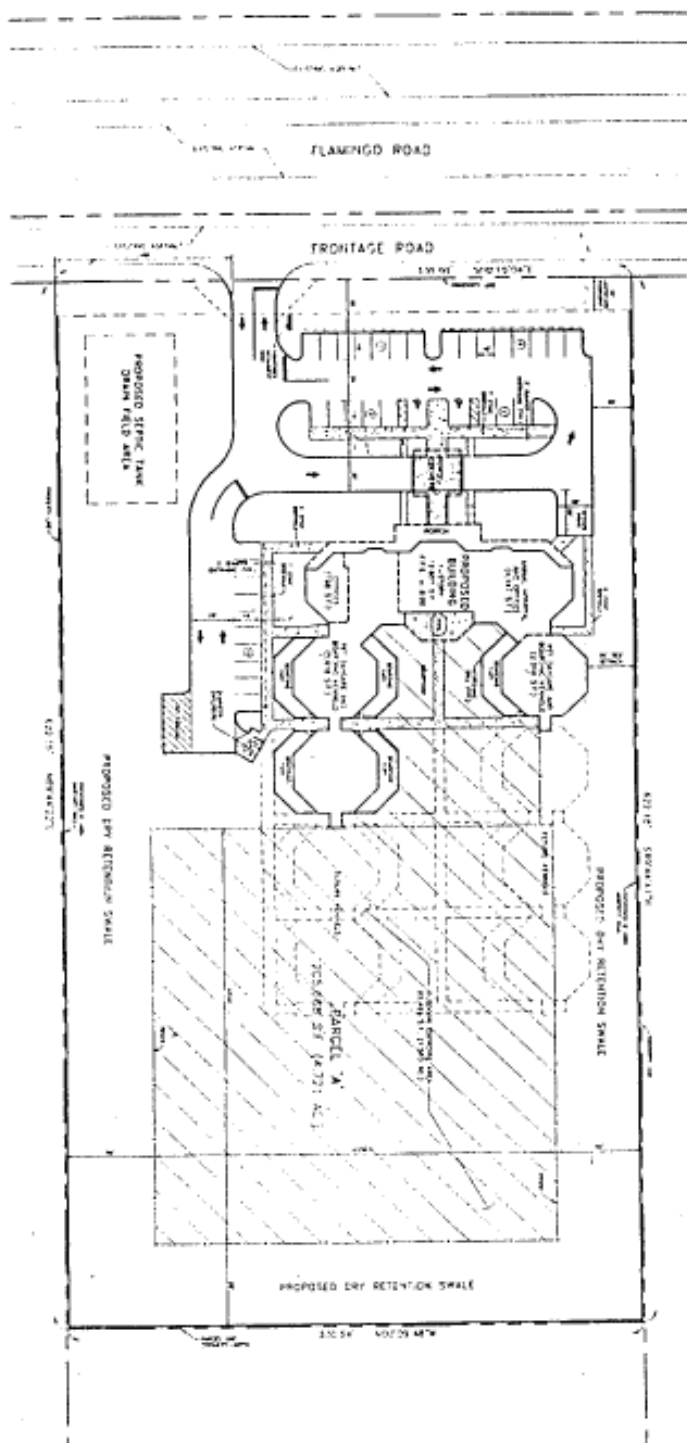
As a result, the proposed special permit satisfies this criterion.

Criterion (7): Whether the proposed special permit will constitute a grant of special privilege to an individual owner as contrasted with the welfare of the general public.

The proposed special permit does not sacrifice the welfare of the general public for the benefit of an individual owner. The proposed permit is consistent with the adopted comprehensive plan and, therefore, does not constitute a grant special privilege. In addition, the special permit is consistent with what was granted to the property owner immediately to the north thereby indicating it is not a grant of privilege to an individual owner.

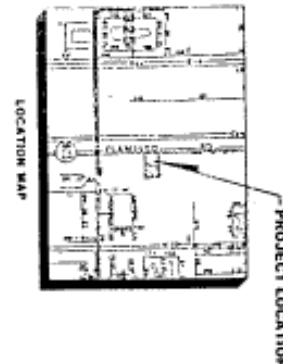
As a result, the proposed special permit satisfies this criterion.

As has been demonstrated, the requested special permit is consistent with the adopted comprehensive plan, the Town's Future Land Use Map, and meets all the criteria contained in the Land Development Code. As a result, this special permit request merits favorable consideration.



CDI ENGINEERING AND PLANNING  
200 SOUTH WILSON AVENUE  
SUITE 200  
TAMPA, FL 33601  
TEL: 813-281-4100  
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WWW.CDI-EP.COM

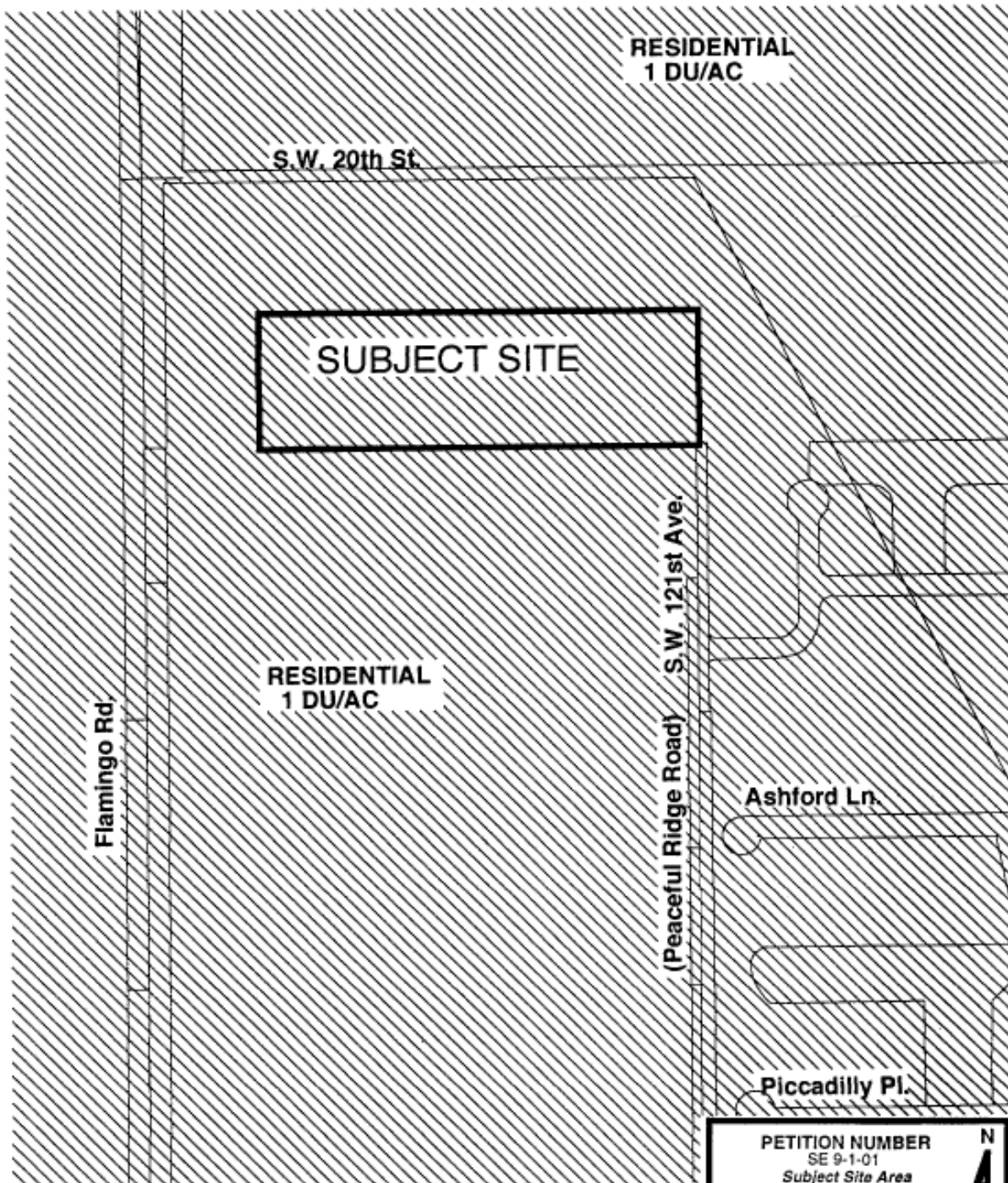
SCALE: 1" = 20' - 0"  
NORTH



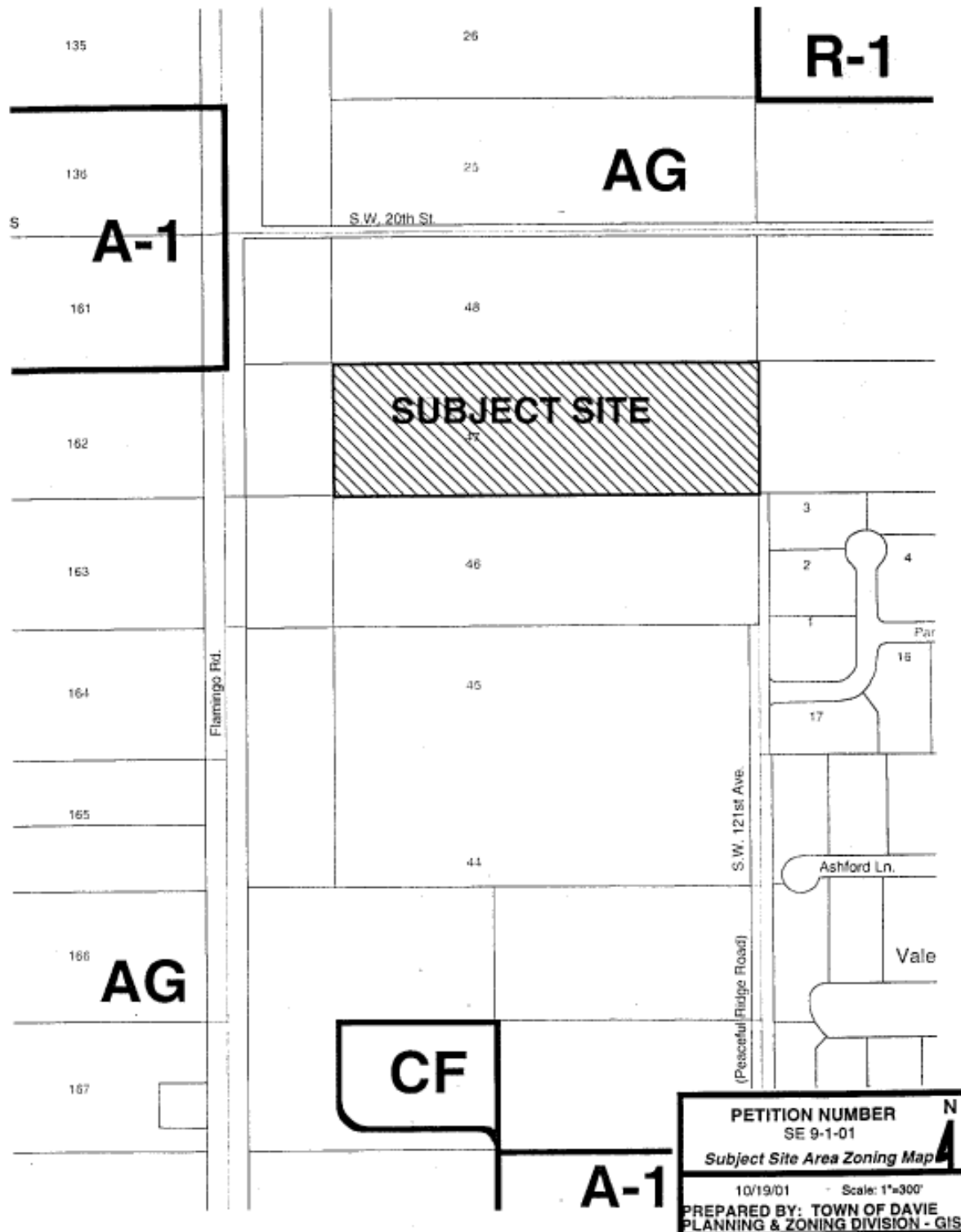
**NOTES:**  
1. THIS PLAN IS A PRELIMINARY SITE PLAN.  
2. THE SITE IS SUBJECT TO A FINAL ENGINEERING REVIEW.  
3. THE SITE IS SUBJECT TO A FINAL ENGINEERING REVIEW.  
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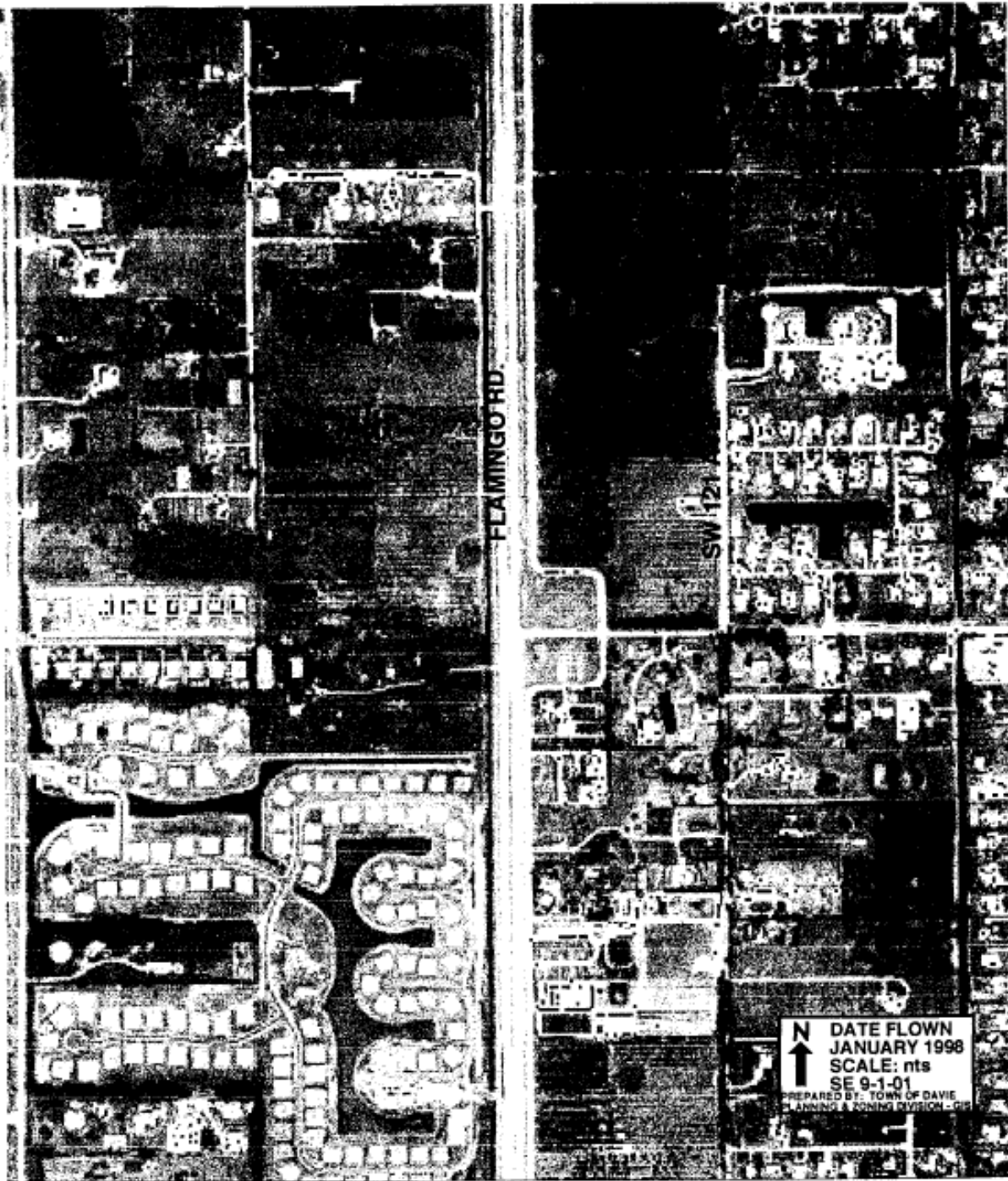
**PRELIMINARY SITE PLAN**  
**V.I. PET RESORT**  
FLORIAN ROAD, TOWN OF DUNN, FL  
CLIENT: KELLNER DEVELOPMENT, INC.  
DATE: SEP 15, 2009  
BY: [Signature]  
CHECKED BY: [Signature]  
APPROVED BY: [Signature]

**CDI ENGINEERING AND PLANNING**  
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SUITE 200  
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PETITION NUMBER	N
SE 9-1-01	4
Subject Site Area	
Future Land Use Plan	
10/19/01 Scale: 1"=300'	
PREPARED BY: TOWN OF DAVIE	
PLANNING & ZONING DIVISION - GIS	





N  
↑  
DATE FLOWN  
JANUARY 1998  
SCALE: nts  
SE 9-1-01  
PREPARED BY: TOWN OF DAVIE  
PLANNING & ZONING DIVISION - G1